

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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KEVIN CLAPP,	)	
Plaintiff	)	
	)	Civil Action No. 18-10426-ADB
V.	)	
	)	
CHARLES BAKER, et. al.	)	
Defendants,	)	

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DEFENDANTS' MOTION IN LIMINE RE PRIOR  
COMPLAINTS AGAINST OR DISCIPLINE OF DEFENDANTS

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Now come Defendants and move in limine to preclude Plaintiff from referring to or attempting to introduce testimony or evidence regarding any complaint made against any Defendant in the course of their duties or any discipline that may have been imposed by the State Police. Plaintiff was allowed by the Court to discover complaints that had been made against the Defendants in the course of their careers as State Police Officers and any discipline that was imposed. There are no complaints or discipline that are relevant to the issues in this case.

Pursuant to Fed. R. Evid. 404(b):

Evidence of other crimes, wrongs or acts is not admissible to prove character of a person in order to show action in conformity therewith.

The First Circuit analyzes issues raised under 404(b) by asking whether the evidence is offered for a legitimate purpose, (See Huddleson v. United States, 485 U.S. 681, 108 S.Ct. 1496, 1499 (1988)), and, if so, whether considerations of substantial prejudice require it to be suppressed under Fed. R. Evid. 403. United States v. Fields, 871 F.2d 188, 196 (1<sup>st</sup>.Cir. 1989). Plaintiff should not be allowed to refer to any

complaint against any Defendant, or any discipline they may have received, without first bringing the issue to the Court's attention, establishing the relevance and probative value, establishing how the proposed evidence would not be hearsay, and having the Court first determine that any probative value is not outweighed by the concerns expressed in Rule 403: that the introduction would cause unfair prejudice, confuse the issues, mislead the jury, cause undue delay or waste time.

Respectfully submitted,  
ALL DEFENDANTS,  
By one of their attorneys on behalf  
of all,

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/s/ Brian Rogal  
Brian Rogal, BBO #424920  
ROGAL & DONNELLAN, P.C.  
100 River Ridge Drive  
Norwood, MA 02062  
(781) 255-1200  
BRogal@RogalandDonnellan.com

#### CERTIFICATE OF SERVICE

I hereby certify that I have served a true copy of the foregoing document upon each other attorney of record by the ECF system and on Plaintiff by first class mail.

January 28, 2022

/s/ Brian Rogal.